IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION.

CRIMINAL WRIT PETITION NO. 2805 OF 2005

Mr. Radheshyam Agarwal & ors....Petitioner.

versus

The State of Maharashtra & ors..... Respondent.

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Mr. S.V.Marwadi for Dilip Devadiga for petitioner
Mr. R.M. Godhavi APP for State.
Mr. S.B.Kanherkar for Respdt. no.2 present.

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CORAM ; A.M. KHANWILKJAR, J.

DATED; DECEMBER 22, 2005

P.C.

1. Heard counsel for the petitioner. Mr. Kanherkar is present for Respondents 2 and 3.

2. Persuant to the notice issued by this court on 6-12-2005 to explore the possibility of settlement, respondent complainant has appeared and submits that there is no possibility of settlement because the properties which are offered by the petitioner are encumbered property. In otherwords, settlement talks have failed. Accordingly,the matter proceeds on merit.

3. The argument of the petitioner that, the execution of the memorandum of understanding between the parties

on 9-2-2001 presupposes that five cheques, as were issued by the petitioners in the month of October 2000, were not to be presented for realisation. However, I see no reason to depart from the opinion expressed by the Revisional Court. Such inference cannot be drawn as the memorandum of understanding is completely silent in this regard. If it is so, whether the intention of the parties was to do away with the cheques already issued, will be matter for trial, for which reason cannot be a ground for quashing. Hence dismissed.

4. At this stage Mr. Marwadi for the petitioners prayed that the trial court be directed not to proceed with the trial for a period of two weeks from today to enable the petitioners to carry the matter in appeal. As the request is reasonable, two weeks time as prayed for is granted. The trial court shall not proceed with the trial for a period of two weeks from today.

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